

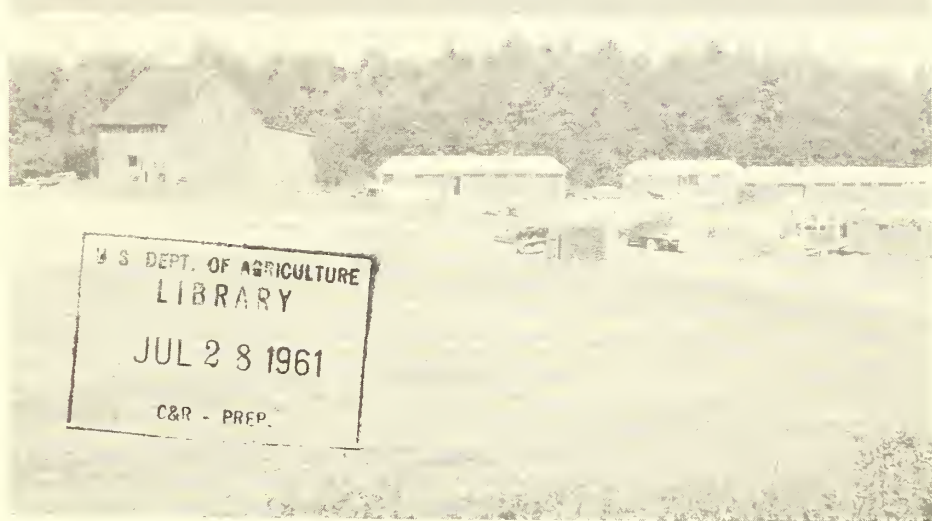
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# Preferential Assessment of FARMLAND



in the Rural-Urban Fringe of Maryland

Economic Research Service  
UNITED STATES DEPARTMENT OF AGRICULTURE  
Washington, D.C.

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## PREFERENTIAL ASSESSMENT OF FARMLAND IN THE RURAL-URBAN FRINGE OF MARYLAND

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### THE SUBURBAN INFLUENCE ON FARM TAXES

The 1960 Census of Population reveals, among other things, the extent to which America has become a nation of suburbanites. Almost two-thirds of the total increase in the population since 1950 has occurred in the 210 Standard Metropolitan Statistical Areas but outside the central cities. The 1960 population of these suburban areas is about 54 million, almost half again as large as in 1950. Moreover, the census tells us that about a third of these suburbanites live in unincorporated areas.

The spacious living characteristic of suburbia has been achieved at the cost of many millions of acres that were previously open country. Naturally, the large-scale developers, who are instrumental in extending suburbanization, tend to seek out relatively low-cost land. Many times, airports, golf courses, or other recreational areas offer opportunity to obtain a large tract of land at low cost. More commonly, the large tracts are in farms. Current figures estimate a loss of about 1.5 million acres of land each year, one-third of which is cropland, and the rate is increasing.

Not all of this land, of course, goes into homesites. Much is taken up for commercial uses. The giant shopping center, with dozens of stores and parking space for hundreds of cars, is a familiar sight in suburban areas. Industry too is moving to the suburbs, as better highways and piggy-back railroading, together with the advantages of cheap land, contribute to the rise of industrial parks. Like suburban homes and shopping centers, industrial parks are designed on an expansive scale, with buildings of only one story, plenty of parking space, and large lawns.

Apart from the direct consequences of conversion of open land to residential, commercial, or industrial use - the loss of productive capacity in agriculture and the disappearance of fields, woods, and wildlife from areas around growing cities - other economic effects extend over larger areas. One important effect is the rising property tax. As suburban development pushes out into the open country, the demand for land for urban purposes often inflates the price of undeveloped land throughout the area to values far greater than can be supported on the basis of current use. Strictly speaking, under tax laws that require assessment on the basis of such concepts as true market value, full cash value, and highest and best use, land currently devoted to farms, airports, and recreational uses but potentially available for development must be assessed and taxed on the higher value. When this occurs, however, experience shows that tax pressures are likely to lead to transfer of land to developers or speculators, often well in advance of actual conversion to urban use and often with little regard to any long-range plan for land use and development.

Along with higher assessed values on land potentially available for development, suburban expansion creates a need for greater local government services and for the revenues to pay for them. New residential developments require police and fire protection, water and sewer facilities, and new and improved roads. Most important, they require expanded school facilities. All of these things place new financial burdens on the local community and lead to increases in tax rates. U. S. Department of Agriculture surveys show that in recent years, taxes on farmland in communities affected by suburban developments have averaged at least

<sup>1</sup> Acknowledgment is made of the cooperation of W. Paul Walker of the Maryland Agricultural Experiment Station, who gave valuable assistance in the planning stage of the study reported here, and commented helpfully on a preliminary draft of the report. The Maryland State Tax Commission and the Supervisors of Assessment of Howard, Montgomery, Prince Georges, Baltimore, and Carroll Counties gave generous cooperation. The author assumes responsibility for all interpretations and conclusions.



twice as high as on farms outside this zone of influence, and that the former have been increasing about twice as rapidly as the latter.

Many devices have been suggested to alleviate some of the problems arising from heavy taxation of land in agriculture and other low-intensity uses. The legislatures of at least 11 States have considered bills to require assessment of farmland on the sole basis of use in agriculture. Of these 11 States, 4 (Maryland, California, Florida, and New Jersey) have enacted such laws.<sup>2</sup> Among other proposed solutions are the acquisition of development rights in land, as now authorized in California, Maryland, and New York; and a plan to defer taxes on land potentially available for development, as proposed in Indiana. Still other approaches work directly on the market value of undeveloped land, by establishing comparatively strict controls over future uses of the land. Regional plans are the means to such controls, and zoning is one of the principal tools.

The study reported here is concerned primarily with the effects of the preferential assessment law in use since 1956 in Maryland. Its purpose is to study the legal history of the law, to examine its effects on assessed values of farmland and on farm taxes, and to consider the administrative aspects of a policy of preferential assessment.

After a preliminary investigation of various statistics concerning the State of Maryland (tables 1 and 2), five counties from the two metropolitan areas of Washington and Baltimore were selected for study (fig. 1). In the Washington Metropolitan Area, data were collected on various utilities to determine where these services were available. The perimeter of these service areas gave a rough approximation of the extent to which large-scale subdivision is possible throughout the Montgomery and Prince Georges County areas (fig. 2).

In the Baltimore Metropolitan Area, a different approach was utilized. Statistics of population density were used to pinpoint the specific election districts in which population was heaviest. These statistics were used as a basis for selecting the three counties of Baltimore, Howard, and Carroll, which are discussed here (fig. 3).

<sup>2</sup> For further discussion of assessment manuals and legislative bills dealing with the rural-urban fringe see Assessment of Farmland in the Rural-Urban Fringe, (1). (Numbers in parenthesis refer to Literature Cited, p. 19.)

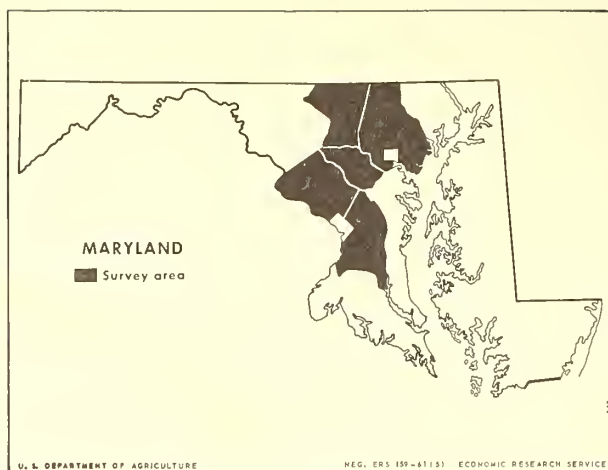


FIGURE 1

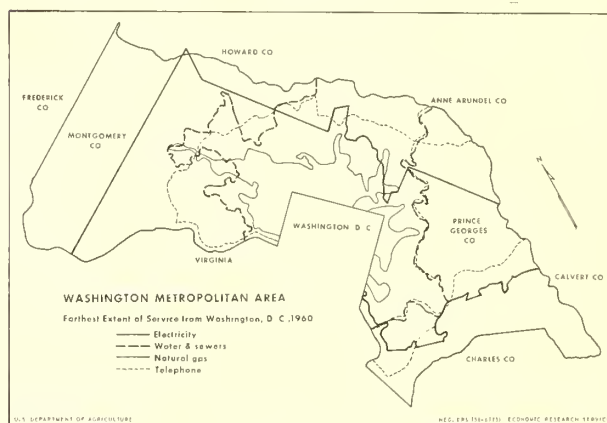


FIGURE 2

After selecting the five counties to be studied, a sample of at least 10 percent of the total number of farms on which the exemption applied in each district in each county was drawn and used as the raw data for the survey. Although such factors as changes in land use and land tenure are important, they were not covered in the survey.

## SUBURBANIZATION IN MARYLAND

In 1956, the population of Maryland was increasing rapidly; more and more farmland was being taken out of agriculture; and land values were climbing at a pace previously unknown in the State. The combination of higher assessed values for farmland with rising tax rates had pushed tax bills to a point at which profits from farming operations were severely reduced.

Population growth in Maryland since 1930 has run well ahead of that in the Nation as a whole. From 1930 to 1940, the State's population increased by 11.6 percent, and from 1940 to 1950 by 28.6 percent (table 2). Growth was especially rapid in the areas around large cities. The two metropolitan areas of Washington and Baltimore<sup>3</sup> alone accounted for half the gain between 1940 and 1950.

The 1960 census shows that these trends accelerated in the 1950's. Maryland gained almost a third in population between 1950 and 1960, compared with the United States increase of about 18 percent (table 2). Ninety-one percent of this gain occurred in the Baltimore and Washington Metropolitan Areas, despite the fact that both central cities lost population during the decade - Baltimore 3 percent and Washington 7 percent. These data underscore the fact, already evident to people in the State in 1956, that the increases in population in the metropolitan areas were occurring not in the central cities but rather in the suburbs and the Maryland countryside.

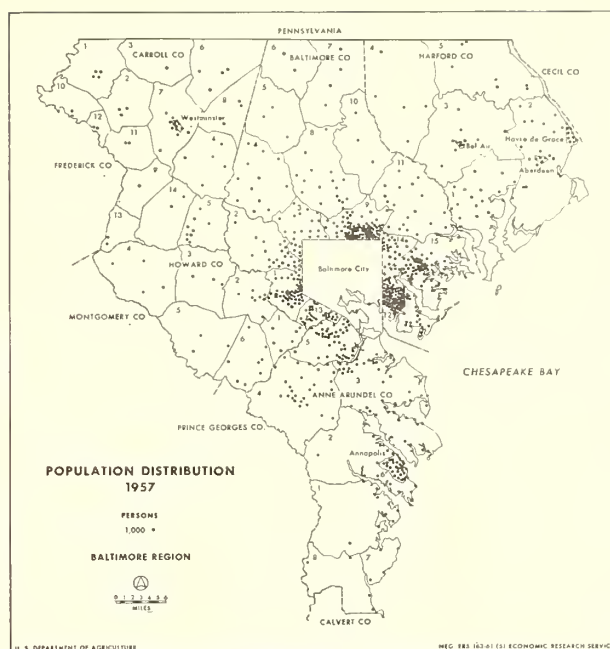


FIGURE 3

TABLE 1.--Land area, population and percentage change in population, by counties, Maryland, census years 1930 to 1960

Area	Land area	Total population <sup>1</sup>				Percentage change		
		1960	1950	1940	1930	1950 to 1960	1940 to 1950	1930 to 1940
	Square miles	Person	Person	Person	Person	Percent	Percent	Percent
The State.....	9,881	3,072,999	2,343,001	1,821,244	1,631,526	31.2	28.6	11.6
Allegany.....	426	83,831	89,556	86,973	79,098	-6.39	3.0	10.0
Anne Arundel.....	417	206,095	117,392	68,375	55,167	75.56	71.7	23.9
Baltimore.....	610	490,201	270,273	155,825	124,565	81.37	73.4	25.1
Baltimore City.....	79	921,363	949,708	859,100	804,874	-2.98	10.5	6.7
Calvert.....	219	15,661	12,100	10,484	9,528	29.43	15.4	10.0
Caroline.....	320	19,376	18,234	17,549	17,387	6.26	3.9	.9
Carroll.....	456	52,649	44,907	39,054	35,978	17.24	15.0	8.5
Cecil.....	352	48,346	33,356	26,407	25,827	44.94	26.3	2.2
Charles.....	458	32,575	23,415	17,612	16,166	39.12	32.9	8.9
Dorchester.....	580	29,597	27,815	28,006	26,813	6.41	-.7	4.4
Frederick.....	664	71,985	62,287	57,312	54,440	15.57	8.7	5.3
Garrett.....	662	20,253	21,287	21,981	19,908	-4.86	-3.2	10.4
Harford.....	448	76,774	51,782	35,060	31,603	48.26	47.7	10.9
Howard.....	251	35,768	23,119	17,175	16,169	54.71	34.6	6.2
Kent.....	284	15,317	13,677	13,465	14,242	11.99	1.6	-5.5
Montgomery.....	494	338,675	164,401	83,912	49,206	106.01	95.9	70.5
Prince Georges.....	485	356,061	194,182	89,490	60,095	83.36	117.0	48.9
Queen Annes.....	373	16,451	14,479	14,476	14,571	13.62	0	-.7
St. Marys.....	367	38,803	29,111	14,626	15,189	33.29	99.0	-3.7
Somerset.....	332	19,375	20,745	20,965	23,382	-6.60	-1.0	-10.3
Talbot.....	279	21,519	19,428	18,784	18,583	10.76	3.4	1.1
Washington.....	462	90,185	78,886	68,838	65,882	14.32	14.6	4.5
Wicomico.....	380	48,744	39,641	34,530	31,229	22.96	14.8	10.6
Worcester.....	483	23,395	23,148	21,245	21,624	1.07	9.0	-1.8

<sup>1</sup> U.S. Census of Population (13).

<sup>3</sup> The Maryland portion of the Washington Metropolitan Area includes Prince Georges and Montgomery Counties; the Baltimore Metropolitan Area includes Howard, Baltimore, Anne Arundel, Harford, and Carroll Counties.

TABLE 2.--Population, and percentage change in population, Maryland and United States, census years 1930 to 1960

	Population <sup>1</sup>				Percentage increase		
	1930	1940	1950	1960	1930 to 1940	1940 to 1950	1950 to 1960
	Thous.	Thous.	Thous.	Thous.	Pct.	Pct.	Pct.
Maryland.....	1,632	1,821	2,343	3,073	11.6	28.6	31.3
United States.....	123,188	132,122	151,683	179,000	7.3	14.8	18.0

<sup>1</sup> U. S. Census of Population (13).

The rapid spread of population into rural-urban fringe areas was well advanced by 1956, as were the accompanying changes in the character of agriculture in the area. In 1930, there were 15,835 farms in the Maryland counties included in the Baltimore and Washington Metropolitan Areas. By 1954, this number had declined to 11,759, or 26 percent. Some of these farms had been absorbed into other farms in line with the nationwide trend to larger farms. But many had been converted to nonfarm uses. The acreage of farmland in these counties at the time of the 1954 Census of Agriculture was down about 232,000 acres, or 16 percent, from that of 1930 (table 3).

Despite the decrease in the acreage of land in agriculture, much farmland remained. As is characteristic of growing metropolitan areas, this farmland shifted toward production of market-oriented goods, predominantly in the direction of greater livestock production. Since 1930, the largest, and in most instances, the only increases in the percentages of farms devoted to specific farming types in these counties were in livestock production.

Dairy farming increased slightly percentage-wise but lost 41 farms. In Montgomery County, dairying rose from 17.6 percent of all farms to 20.8 percent of all farms. Poultry farming, however, increased to a greater extent, from 0.4 percent of all farms in Baltimore County to 12.6 percent, or an increase of 276 farms. The largest increase was in other types of livestock - turkeys, horses, pigs, and so on. The number of farms in this category in all the counties increased substantially. In Carroll County, 302 farms were added, raising the percentage from 2.1 percent of all farms in

Carroll County to 17.8 percent. In Howard County, the addition of 154 farms increased the percentage from 4.9 to 21.4 percent of all farms. The only other percentage change in farm production occurred in Prince Georges County, in which tobacco farms increased by about 9 farms, or from 44.8 to 58.2 percent of all farms.

The value of land remaining in agriculture has risen greatly. In 1954, the statewide average value per acre was \$177, a little more than double that of 1930. In the Maryland portion of the Washington Metropolitan Area, the increase was about 163 percent to an average of \$331, and in the Baltimore area (excluding Baltimore County and Baltimore City), the increase was about 141 percent. Behind these increases lay such influences as increased demand for farmland for agricultural use and use of land as a hedge against inflation. In the metropolitan areas there are additional influences resulting from the demand for farmland for nonfarm uses and the previously mentioned conversion of farmland from less intensive to more intensive forms of agriculture.

With the rise in market value of farmland, assessed values also have risen. In Baltimore County, the 1956 assessed value of land was about three times that of 1948. In Montgomery and Prince Georges Counties, it was 3-1/3 times and in Howard County 1-1/3 times higher (table 4). Tax rates also had risen gradually during this period.

Faced with this situation, Maryland in 1956 adopted legislation to relieve farmland in the rural-urban fringes of part of its taxload.



TABLE 3.--Selected characteristics of farms, by counties, Maryland, specified years, 1930 to 1959

Item	The State	Allegany	Anne Arundel	Baltimore and Baltimore City	Calvert	Caroline	Carroll	Cecil	Charles	Dorchester	Frederick	Garrett
<b>Farms:</b>												
1959.....number..	25,121	565	961	1,361	991	1,177	2,035	832	1,101	729	2,306	1,317
1954.....do.....	32,500	864	1,187	2,331	1,248	1,396	2,571	1,185	1,440	1,027	2,792	1,438
1950.....do.....	36,107	974	1,465	2,821	1,218	1,571	2,766	1,244	1,576	1,207	2,977	1,762
1945.....do.....	41,275	1,161	1,488	3,681	1,347	1,776	3,128	1,326	1,776	1,509	3,392	2,154
1940.....do.....	42,110	1,132	1,556	3,822	1,177	1,817	3,188	1,388	1,276	1,486	3,466	2,068
1930.....do.....	43,203	1,020	1,555	3,511	1,103	1,922	3,149	1,424	1,592	1,598	3,434	1,839
<b>Approximate land area:</b>												
1959.....acres..	6,319,360	272,640	266,880	439,680	140,160	204,800	289,920	225,280	293,120	371,200	424,960	423,680
1954.....do.....	6,323,840	272,640	266,880	440,960	140,160	204,800	291,840	225,280	293,120	371,200	424,960	423,680
1950.....do.....	6,323,840	272,640	266,880	440,960	140,160	204,800	291,840	225,280	293,120	371,200	424,960	423,680
1945.....do.....	6,327,680	272,640	266,880	440,960	140,160	204,800	291,840	225,280	293,120	371,200	424,960	427,520
1940.....do.....	6,327,680	272,640	266,880	440,960	140,160	204,800	291,840	225,280	293,120	371,200	424,960	427,520
1930.....do.....	6,362,240	283,520	272,640	439,040	139,520	204,160	286,808	241,280	296,960	368,640	424,320	438,400
<b>Percentage of land in farms:</b>												
1959.....percent..	54.7	35.5	30.6	34.1	60.9	76.5	77.5	61.5	49.0	42.3	73.8	46.9
1954.....do.....	61.6	45.8	38.2	47.1	61.9	77.0	83.6	71.1	59.0	49.9	77.3	49.1
1950.....do.....	64.1	44.8	43.5	50.2	67.3	80.6	86.5	75.0	61.7	48.3	79.9	50.8
1945.....do.....	66.4	40.9	47.7	54.9	75.1	83.8	90.2	72.9	59.5	51.4	81.5	51.5
1940.....do.....	66.3	48.6	47.7	54.9	72.7	83.0	88.1	77.8	62.1	49.8	81.4	55.1
1930.....do.....	68.8	49.1	50.7	57.7	80.0	82.1	90.7	72.6	69.0	46.7	82.6	55.0
<b>Land in farms:</b>												
1959.....acres..	3,455,556	96,666	81,793	149,856	85,426	156,771	224,805	138,649	143,750	157,050	313,501	198,495
1954.....do.....	3,896,608	124,811	101,964	207,561	86,821	157,617	244,012	160,135	169,927	185,163	328,692	207,882
1950.....do.....	4,055,529	122,200	116,221	221,452	94,397	165,079	252,472	169,034	180,755	179,323	339,744	215,078
1945.....do.....	4,199,859	111,532	121,839	267,854	105,325	171,624	263,220	164,224	174,486	190,703	346,305	220,047
1940.....do.....	4,197,827	132,463	127,189	242,135	101,958	169,894	257,103	175,177	182,164	185,028	345,906	235,522
1930.....do.....	4,374,398	139,322	138,315	253,151	111,639	167,521	259,360	175,229	205,011	172,249	350,343	241,248
<b>Average size of farm:</b>												
1959.....acres..	137.6	171.1	85.1	110.1	86.2	133.2	110.5	166.6	130.6	215.4	136.0	150.7
1954.....do.....	119.9	144.5	85.9	89.0	69.6	112.9	94.9	135.1	118.0	180.3	117.7	144.6
1950.....do.....	112.3	125.5	79.3	78.5	77.5	105.1	91.3	135.9	114.7	148.6	114.1	122.1
1945.....do.....	101.8	96.1	81.9	72.8	78.2	96.6	84.1	123.8	129.6	126.4	102.1	102.2
1940.....do.....	99.7	117.0	81.7	63.4	86.6	93.5	80.6	120.3	142.8	124.5	99.8	113.9
1930.....do.....	101.3	136.6	88.9	72.1	101.2	87.2	82.4	123.1	128.8	107.8	102.0	131.2
<b>Average value per acre:</b>												
1959.....dollars..	275.94	80.87	499.06	720.79	352.70	151.94	252.39	223.69	211.91	160.81	234.83	76.68
1954.....do.....	176.95	79.08	262.11	368.31	182.93	123.78	169.20	170.72	131.06	126.72	157.00	68.72
1950.....do.....	125.07	53.29	202.77	(1)	125.28	77.91	118.43	114.97	98.46	68.10	122.19	49.14
1945.....do.....	84.48	34.51	112.18	(1)	67.92	49.35	50.83	52.21	30.83	52.21	76.36	34.86
1940.....do.....	65.27	32.89	84.46	(1)	46.59	38.51	61.60	64.12	33.64	37.04	62.66	29.65
1930.....do.....	81.42	37.84	104.77	(1)	49.55	52.94	73.41	75.73	40.56	61.04	74.31	33.55
<b>Value of all farm products sold<sup>2</sup>:</b>												
1954.....dollars..	195,072,119	1,443,602	5,039,592	10,945,260	3,207,240	10,424,165	13,448,192	6,550,185	4,291,768	7,273,860	18,873,395	4,017,904
1949.....do.....	172,157,401	1,145,015	5,351,727	10,947,338	3,007,060	10,179,932	11,433,436	6,040,279	4,177,594	5,700,631	16,087,464	3,396,379
1945.....do.....	137,095,409	874,897	4,733,678	9,001,366	3,086,416	6,283,578	8,613,429	4,185,012	3,156,276	4,293,549	11,227,411	2,304,837
1940.....do.....	55,076,468	614,618	2,182,812	4,709,171	1,164,374	2,017,310	4,238,606	2,120,823	1,450,434	1,917,585	5,562,105	1,062,975

See footnotes at end of table.

--Continued

TABLE 3.--Selected characteristics of farms, by counties, Maryland, specified years, 1930 to 1959--Continued

Item	Harford	Howard	Kent	Montgomery	Prince Georges	Queen Annes	St. Marys	Somerset	Talbot	Washington	Wicomico	Worcester
<b>Farms:</b>												
1959.....number..	1,303	618	537	973	1,251	812	1,104	663	570	1,399	1,418	1,098
1954.....do.....	1,548	881	711	1,455	1,786	977	1,443	801	747	1,934	1,560	1,178
1950.....do.....	1,873	1,051	696	1,555	2,130	937	1,380	920	807	2,025	1,763	1,389
1945.....do.....	2,199	1,037	724	2,179	2,070	1,207	1,483	1,179	976	2,446	1,983	1,484
1940.....do.....	2,269	1,007	852	2,062	2,158	1,271	1,347	1,193	1,033	2,516	2,191	1,767
1930.....do.....	2,260	1,098	971	1,971	2,291	1,464	1,392	1,561	1,113	2,552	2,193	2,190
<b>Approximate land area:</b>												
1959.....acres..	286,720	160,000	181,760	315,520	310,400	238,720	234,880	212,480	178,560	295,680	243,200	309,120
1954.....do.....	286,720	160,640	181,760	316,160	310,400	238,720	234,880	212,480	178,560	295,680	243,200	309,120
1950.....do.....	286,720	160,640	181,760	316,160	310,400	238,720	234,880	212,480	178,560	295,680	243,200	309,120
1945.....do.....	286,720	160,640	181,760	316,160	310,400	238,720	234,880	212,480	178,560	295,680	243,200	309,120
1940.....do.....	286,720	160,640	181,760	316,160	310,400	238,720	234,880	212,480	178,560	295,680	243,200	309,120
1930.....do.....	282,880	160,000	180,480	333,440	308,480	233,600	237,440	211,840	171,520	295,760	237,440	316,800
<b>Percentage of land in farms:</b>												
1959.....percent..	57.8	60.2	81.4	53.7	40.1	76.6	53.8	40.3	77.3	65.3	54.0	47.8
1954.....do.....	61.1	74.8	84.5	62.4	51.4	82.1	63.8	46.1	79.5	72.1	57.7	57.2
1950.....do.....	64.8	76.6	86.2	67.4	60.4	83.8	64.5	48.1	78.2	73.9	57.4	58.9
1945.....do.....	69.7	75.8	84.8	78.1	62.6	89.1	62.2	47.5	86.4	77.6	57.9	52.2
1940.....do.....	71.9	77.1	89.6	69.2	59.8	87.4	62.7	46.0	85.0	72.8	61.5	56.9
1930.....do.....	75.1	80.5	88.4	71.6	67.3	89.6	70.6	55.5	89.0	78.6	62.2	59.5
<b>Land in farms:</b>												
1959.....acres..	165,715	96,333	147,880	169,576	124,338	182,772	126,455	85,528	138,059	193,053	131,363	147,722
1954.....do.....	175,100	120,196	153,571	197,335	159,678	196,018	149,882	97,910	141,994	213,104	140,372	176,863
1950.....do.....	185,739	122,999	156,719	213,004	187,606	200,004	151,490	102,212	139,698	218,540	139,693	182,070
1945.....do.....	199,855	121,833	154,106	247,018	194,231	212,646	146,153	101,014	154,203	229,496	140,916	161,229
1940.....do.....	206,091	123,785	162,889	218,714	185,611	208,551	147,328	97,831	151,859	215,274	149,605	175,750
1930.....do.....	212,363	128,837	159,460	238,728	207,459	209,415	167,547	117,574	152,574	230,849	147,783	188,422
<b>Average size of farm:</b>												
1959.....acres..	127.2	155.9	275.4	174.3	99.4	225.1	114.5	129.0	242.2	138.0	92.6	134.5
1954.....do.....	113.1	136.4	216.0	135.6	89.4	200.6	103.9	122.2	190.1	110.2	90.0	150.1
1950.....do.....	99.2	117.0	225.2	137.0	88.1	213.5	109.8	111.1	173.1	107.9	79.2	131.1
1945.....do.....	90.9	117.5	212.9	113.4	93.8	176.2	98.6	85.7	158.0	93.8	71.1	108.6
1940.....do.....	90.8	122.9	191.2	106.1	86.0	164.1	109.4	82.0	147.0	85.6	68.3	99.5
1930.....do.....	94.0	117.3	164.2	121.1	90.6	143.0	120.4	75.3	137.1	90.5	67.4	86.0
<b>Average value per acre:</b>												
1959.....dollars..	372.26	517.04	204.14	680.09	595.06	205.73	197.18	163.33	321.05	187.82	211.15	161.13
1954.....do.....	216.31	248.30	159.64	300.72	361.82	153.06	151.61	128.78	180.79	147.30	139.69	88.56
1950.....do.....	164.38	207.29	101.02	227.88	198.28	84.84	121.02	76.53	118.96	113.99	106.97	69.47
1945.....do.....	104.85	107.46	58.94	154.17	127.00	65.39	66.38	54.36	102.24	78.85	69.95	56.51
1940.....do.....	84.87	79.19	55.17	112.11	102.92	50.31	49.65	41.56	76.56	65.86	43.08	34.68
1930.....do.....	103.59	90.61	59.87	146.42	105.91	67.03	52.30	66.04	91.09	82.22	68.78	53.24
<b>Value of all farm products sold<sup>2</sup>:</b>												
1954.....dollars..	9,802,527	5,538,576	6,845,306	9,697,587	6,667,838	8,552,009	4,281,783	8,174,205	8,069,793	12,072,233	16,382,437	13,472,662
1949.....do.....	8,912,208	4,530,683	5,428,340	10,678,909	7,159,565	6,567,449	3,886,688	6,129,688	5,622,632	8,727,086	12,746,203	14,301,095
1945.....do.....	6,547,573	3,396,442	3,598,830	7,235,470	6,460,055	5,095,038	3,590,102	5,739,746	4,224,134	7,060,101	12,218,845	14,168,891
1940.....do.....	3,869,164	1,599,687	1,760,409	2,926,508	2,863,605	2,015,118	1,214,981	1,524,453	1,797,624	2,920,530	2,487,335	3,056,241

<sup>1</sup> Not available.<sup>2</sup> Data for 1959 and 1930 not available.

TABLE 4.--Assessed value of land and improvements, by counties, Maryland, 1948 and 1956

County	Assessed value of land			Assessed value of improvements		
	1948	1956	Percentage change	1948	1956	Percentage change
	<u>Million dollars</u>	<u>Million dollars</u>	<u>Percent</u>	<u>Million dollars</u>	<u>Million dollars</u>	<u>Percent</u>
Allegany.....	23	24	4.3	57	81	42.1
Anne Arundel.....	23	54	134.8	54	165	205.6
Baltimore.....	66	180	172.7	208	810	289.4
Calvert.....	(1)	5	(1)	(1)	12	(1)
Caroline.....	(1)	7	(1)	(1)	15	(1)
Carroll.....	13	20	53.8	24	53	120.8
Cecil.....	6	13	116.7	22	34	54.5
Charles.....	5	7	40.0	8	21	162.5
Dorchester.....	9	16	77.8	11	25	127.3
Frederick.....	22	24	9.1	29	55	89.7
Garrett.....	6	7	16.7	8	11	37.5
Harford.....	13	22	69.2	31	66	112.9
Howard.....	6	8	33.3	12	29	141.7
Kent.....	7	8	14.3	7	12	71.4
Montgomery.....	69	222	221.7	143	566	295.8
Prince Georges...	36	100	177.8	95	365	284.2
Queen Annes.....	8	10	25.0	10	17	70.0
St. Marys.....	4	6	50.0	8	19	137.5
Somerset.....	4	4	0	8	12	50.0
Talbot.....	7	10	42.9	14	26	85.7
Washington.....	21	28	33.3	55	102	85.5
Wicomico.....	12	18	50.0	23	47	104.3
Worcester.....	9	15	66.7	14	34	142.9

<sup>1</sup> Not available.

## THE PREFERENTIAL ASSESSMENT LAW

The Constitution and laws of Maryland, like those of other States, require that property be assessed for tax purposes at its full cash value (10). Usually this is interpreted to mean market value, or the value the property would sell for in a transaction between a willing buyer and a willing seller. Actual selling prices of comparable pieces of property are typically taken as the most reliable gage of market worth.

As applied to farm properties in the rural-urban fringe areas, this method of assessment results in valuations for tax purposes that are strongly influenced by sales of farmland for nonfarm uses. Farms that can support a market value of no more than a few hundred dollars an acre in agriculture may be valued at several thousand dollars an acre for taxation, if nearby lands have

sold for subdivision for that amount. As a result, until 1956 it was possible for farmland in the State to be assessed at values far out of line with those based on agricultural use and productivity. Actually, only Montgomery County actively followed a program of assessing on the basis of market value; but land in other counties was beginning to reflect the value of non-farm influences. This leads to the conclusion that the other counties would soon have had to consider these factors in assessing their rural-urban farmland.

In that year, recognizing the growing concern over the prospects of maintaining agriculture in the State, the legislature enacted a law requiring assessment of farmland on the basis of agricultural use alone, regardless of the influence of any other factors that might enhance the total value of the land. As originally enacted



(over the Governor's veto), the law provided simply that

"... Lands which are actively devoted to farm or agricultural use will be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis (5)."

In this form, the law was found to be deficient in that it failed to define what was meant by land used in farming. Consequently, early in 1957, a new version was enacted. It outlined in general terms a basis for distinguishing an authentic farm and empowered the State Tax Commission to establish detailed criteria for the same purpose.

"... Lands which are actively devoted to agricultural use will be assessed on the basis of such use, and shall not be assessed as if subdivided or on any other basis. The State Tax Commission will have the power to establish criteria for the purposes of determining whether lands subject to assessment under this subsection are actively devoted to farm or agricultural use by the adoption of rules and regulations. Such criteria will include, but will not be limited to, the following:

1. Zoning applicable to the land.
2. Present and past use of the land including land under the soil bank provisions of the Agricultural Stabilization Act of the United States Government.
3. Productivity of the land including timberlands and lands used for reforestation.
4. The ratio of farm or agricultural use as against other uses of the land (6)."

Under the authority granted by this law, which empowered the State Tax Commission to establish criteria to be used in assessing bona fide farmland, meetings were held by the Commission and the local assessors at which the purpose of the law was discussed. Much of the discussion at these meetings seems to have centered on the definition of properties that would not be considered farms. In conjunction with these meetings, the assessors in each county were given

copies of the law, and were instructed to establish in consultation with their respective supervisors countywide standards for determining whether land was or was not a farm. The main criterion was "use"; consequently, any land used as a farm was assessed under this law. The definition of use, however, was left almost wholly to the judgment of individual assessors.

Partly because of the problem of defining agricultural use, on January 19, 1960, the Maryland Court of Appeals, in the case of the State Tax Commission vs. Gales, declared the law unconstitutional because it:

"... fails to meet two requirements of a valid exemption - reasonableness and public purpose (3)."

The Court reasoned that in areas which were primarily agricultural, farmland would be assessed on the basis of agricultural use with or without preferential assessment because, by definition, in these areas, highest and best use was identical with agricultural use.

"Assessments of land are normally based on the highest and best use of the land. In a primarily agricultural area, the valuation so arrived at thus will ordinarily coincide with the valuation of the land for agricultural purposes. We believe that this has been true and will continue to be true with or without Sec. 19 (G). In other words, in farming areas, this statute confers no tax benefits at all on agricultural lands or on agriculturalists; it simply makes no difference. It therefore cannot be fairly described as an aid to agriculture in general on any state-wide or even on any county basis (3)."

As to areas of the State in which there were mixed agricultural and rural sections, the Court reasoned that farmers would not be the sole beneficiaries of the exemption, and that even among those who benefited, there would be "considerable inequalities (3)."

Almost immediately, the State requested a rehearing of the case. The request was granted, and the final verdict of the court was laid aside. On March 23, 1960, before the rehearing, a new law, which repealed the one still pending, was approved.



The following portion of the new law was written specifically to clarify the public purpose to be served:

"Farm or agriculture use-lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if subdivided or any other basis. It being the intent of the General Assembly that the assessment of farm land shall be maintained at levels compatible with the continued use of such land for farming and shall not be adversely affected by neighboring land uses of a more intensive nature. The General Assembly hereby declares it to be in the general public interest that farming be fostered and encouraged in order to maintain a readily available source of food and dairy products close to the metropolitan areas of the State, to encourage preservation of open spaces as an amenity necessary to human welfare and happiness, and to prevent the forced conversion of such open space to more intensive uses as a result of economic pressures caused by the assessment of land at a rate or level incompatible with the practical use of such land for farming."

The same law authorized the State Department of Assessment and Taxation to establish criteria for judging whether farms

"which appear to be actively devoted to farm or agricultural use are in fact bona fide farms and qualify for assessment under this subsection (9)."

On October 1, 1960, the State Department of Assessment and Taxation took advantage of this authority and published the following list of criteria (12):

- "1. Zoning applicable to the land.
2. Applications for, and grants of, zoning reclassification in the area.
3. General character of the neighborhood.
4. Use of adjacent properties.
5. Proximity of subject property to metropolitan area and services.
6. Submission of subdivision plan for subject or adjacent property.

7. Present and past use of the land.
8. Business activity of owner on and off the subject property.
9. Principal domicile of owner and family.
10. Date of acquisition.
11. Purchase price.
12. Whether farming operation is conducted by the owner or by another for owner.
13. If conducted by another for owner, the provisions of the arrangement, written or oral, including, but not limited to, the term, area let, consideration and provisions for termination.
14. Farming experience of owner or person conducting farming operations for owner.
15. Participation in governmental or private agricultural programs or activities.
16. Productivity of the land.
17. Acreage of crop land.
18. Acreage of other lands (wooded, idle).
19. Number of livestock or poultry (by type).
20. Acreage of each crop planted.
21. Amount of fertilizer and lime used.
22. Amount of last harvest of each crop.
23. Gross sales last year from crops, livestock and livestock products.
24. Amount of feed purchased last year.
25. Months of hired labor.
26. Uses, other than farming operation, of the land.
27. Ratio of farm or agricultural use as against other uses of land.
28. Inventory of buildings, and condition of same.
29. Inventory of machinery and equipment, and condition of same."

## EFFECTS OF THE LAW

This list illustrates the problem that confronted the State Department of Assessment and Taxation when it was set to the task of establishing objective criteria for determining bona fide farms. Although the list requires the assessors to consider such factors as amount of feed purchased and productivity of the land, no indication is given as to the amounts to be considered sufficient. Furthermore, there is no indication as to how many of these criteria should be satisfied to make a farm eligible for exemption. The lack of these specifications makes consistent application of the criteria extremely difficult.

At the rehearing on June 13, 1960, the original decision of unconstitutionality was upheld, but this decision applied to a law no longer in existence. In this case, *The State Tax Commission vs Wakefield*, the court based its decision on the question of uniformity rather than on the more esoteric questions of reasonableness and public purpose. The Court of Appeals held that the law attempted a separate classification of land for tax purposes, thereby directly violating Article 15 of the Declaration of Rights, which requires uniform classification of land (2).

In light of the court's decisions, the 1960 legislature passed two proposed amendments to the Constitution for submission to the electorate for approval in the election of November 1960. The first provided for separate assessment and classification of land:

"...the General Assembly shall, by uniform rules, provide for the separate assessment [of land and] classification and subclassification[s] of land, improvements on land and personal property, as it may deem proper... (8)."

The second proposed amendment specifically authorizes preferential assessment of farmland:

"...the Legislature may provide that land actively devoted to farm or agriculture use shall be assessed on the basis of such use and shall not be assessed as if subdivided or on any other basis (11)."

On November 8, 1960, these two amendments were approved by a vote of almost two to one in the five-county study area.

Despite the Constitutional requirement that property be valued for tax purposes at its "full cash value," at the time the law was enacted in 1956, most Maryland counties were assessing farmland by methods which, in practice, took account of agricultural factors only. The influence of urban forces on farmland values was tacitly ignored. However, in Montgomery County (in the Washington, D. C. Metropolitan Area) efforts were made to reflect nonfarm influences on current market prices in assessments on land remaining in agricultural use.

In a sense, therefore, it is correct to say that enactment of the 1956 law brought no actual tax reduction nor loss in tax base except in Montgomery County. Realistically, however, it must be recognized that the other counties, faced with pressures for added revenues and subject also to the general rule of basing assessments on market values, would in time have adopted procedures for assessing farmland that was subject to potential nonfarm use at a higher level. For this reason, in analyzing the effect of the law on assessed values, it seems appropriate to compare the actual assessment based on agricultural use with the assessment that would have been applied under market-value standards.

In the five-county area studied (fig. 1), the effects on individual property assessments were found to vary widely. The effect of the law on assessed value per acre was negligible in the more rural portions of the study area, but in some of the areas nearest urban centers, assessments were held to amounts as little as one-fifteenth of the assessment that would have been obtained if based on market value as determined by the 1959 sales-assessment ratio (4, p. 6) of agricultural land.<sup>4</sup>

The reduction in assessed value per acre resulting from the operation of the law averaged about 46 percent for the five-county area (table 5). The greatest

<sup>4</sup> These comparisons are based on a random selection of farm properties in each of the 5 counties. In each county, the sample amounted to more than 10 percent of all properties to which preferential assessment applied. The assessment (based on agricultural use) was obtained for each property from the assessor's records. This was compared with the assessor's own estimate of the assessment without benefit of the law, or, when these estimates were not available, a percentage of the market value, determined by the 1959 sales-assessment ratio, as estimated from recent sales of comparable tracts in the same neighborhood.

TABLE 5.--Reductions in assessed value of sample properties under "agricultural exemption" law, specified counties, Maryland, 1960

County	Actual assessed value (based on value in agricultural use) (1)	Assessment based on 1959 sales ratio study <sup>1</sup> (2)	Percentage reduction attributable to the "agricultural exemption" law	
			Improved <sup>2</sup> (3)	Unimproved (4)
	<u>Dollars</u>	<u>Dollars</u>	<u>Percent</u>	<u>Percent</u>
Montgomery.....	109	196	44	58
Prince Georges.....	166	592	72	74
Baltimore.....	236	384	39	55
Howard.....	126	251	50	63
Carroll.....	127	191	34	50
Average 5 counties..	153	323	53	60

<sup>1</sup> 1959 Survey of Assessment Ratios (4).

<sup>2</sup> Col. 3 = col. 2 minus col. 1 divided by col. 2.

reduction was manifest in Prince Georges County, where assessments per acre of farmland were reduced on the average by about 65 percent.<sup>5</sup> Carroll County, the most agricultural of all the counties studied and the least affected by urban sprawl, showed an average reduction of about a third.

Preferential assessment of farmland in Montgomery County brought reductions in assessed values ranging from about 290 percent in Potomac, District 10, to essentially no change in Barnesville, District 11, and Laytonsville, District 1, (fig. 4). The aggregate assessed value of farmland was reduced by an estimated 44 percent.

On individual properties in Montgomery County, still greater reductions were found. On a farm of 366 acres, which had been assessed for \$150,000, or more than \$410 per acre, the assessment was reduced by 80 percent to \$30,000, or \$82 per acre. On a 136-acre farm, the assessment per acre was reduced 83 percent - from \$876 to \$145. These two examples are typical of the reduced assessed value per acre on farmlands that are near urban centers.

In the absence of this law, Baltimore County would have increased its assessments on farmland an average of 1.63 times had it assessed on the basis of market value (table 5). In particular districts, such as 2 and 15, which are adjacent to Baltimore City and are the prime choices of suburbanites, the assessed value per acre would have increased an average of 5.8 times in the absence of this law.<sup>6</sup>

In Howard County, the average assessed value per acre would have increased 1.99 times if the county had assessed on the basis of market values in the area. The greatest effect of this preferential assessment is manifested in the eastern end of the county, along Route 1 from Baltimore to Washington and in District 2 where Elllicott City (the county seat) is located. The average difference between the present assessed values and those based on market values in the eastern end of the county is an increase of 2.63 times; the western end of the county would have an increase of only 1.66 times the present assessment. If

<sup>5</sup>One reason for the high average market value per acre in Prince Georges County is that relatively much farmland remained in those parts of the county immediately adjacent to the District of Columbia. Because of their location, these farms are very valuable and influence the average substantially.

<sup>6</sup>District 14 was omitted from the general conclusions because we were able to use only a small sample of current sales in this district. Of the 47 acres sampled in district 14, the average assessed value per acre would have increased 15 times had the assessment been based on market value, or from a present assessed value of \$265 to an average assessed value of \$3,544.



Carroll County were to assess farmland on the basis of market value, the average assessed value per acre would be 1.50 times greater (table 5).<sup>7</sup>

## TAXES

Before the introduction of the Farm Bill in 1956, all of the counties studied, except Montgomery, had assessed farmland with sole regard to agricultural factors. In these counties, the effect of the law on taxes was negligible; in Montgomery County, a comparison of the current taxes and taxes based on market values indicates that in the absence of the law, the average tax would have been \$6.69 rather than \$2.90 per acre, or about double.<sup>8</sup> It is estimated that in 1960, the tax per acre on farmland in Prince Georges County would have averaged \$28.30, instead of the \$6.00 it actually averaged (table 6).<sup>8</sup>

Baltimore County's tax rate for fiscal 1959 was \$2.2942. This rate applied to all

TABLE 6.--Tax rates based on market value and on preferential assessment, Montgomery, Prince Georges, and Howard Counties, Md., 1960

County	Tax per acre based on --	
	Market value <sup>1</sup>	Current assessment
	Dollars	Dollars
Montgomery.....	6.69	2.90
Prince Georges....	28.30	6.00
Howard <sup>2</sup> .....	5.40	2.50

<sup>1</sup> Estimated market value times 1959 assessment ratio.

<sup>2</sup> Taxes per acre do not include State rate of 0.1375 per \$100.

<sup>7</sup> Because some of the districts of Carroll County had not been reassessed between 1957 and 1960, when market-value data were assembled, it was not possible in this county to use a sample of all of them. To obtain a weighted average for the county, 3 districts affected by urban pressures were sampled; the other 3 sampled were not so affected. These 6 districts were used as the basis for the county average for both assessments based on market values and current amounts.

<sup>8</sup> The difference in the percentage reduction in average value per acre and the percentage reduction in the average tax per acre is attributable to the varying intracounty tax rates.

the farms in this county, except those close to the metropolitan area, where an additional tax is levied for water and sewer; therefore, in the absence of this law, the average increase in per acre taxes would approximate that in assessments per acre (an average of about 1.63 times).

In 1956, farmland in Montgomery County was assessed at an average of \$116 per acre. In 1957, following enactment of the preferential assessment law, this average was reduced to \$88 per acre. This reduction of \$28 per acre, or 24 percent, is one of the best measures of the immediate effect of the introduction of the law (table 7). In the aggregate, of the 197,000 acres in farms in the county, the 144,000 acres subject to preferential assessment were assessed for \$4.0 million less than they would have been assessed in the absence of this law. This amount equals about 0.42 percent of the county's 1957 tax base.

Between 1957 and 1960, the estimated agricultural value of farmland in Montgomery County increased 24 percent, giving an average assessed value of \$109 per acre. Under the preferential assessment law, this is the average value actually used for tax purposes. Meanwhile, taking into account nonagricultural influences, the estimated market value of this land increased by 69 percent, so that assessments based on these values would have averaged \$196

TABLE 7.--Assessed value of farmland per acre, Montgomery County, Md., 1956 and 1957

District	Average assessed value per acre in --	
	1956	1957
	Dollars	Dollars
1.....	90	83
2.....	71	62
3.....	63	55
4.....	331	261
5.....	680	162
8.....	205	164
9.....	155	146
10.....	1,017	735
11.....	46	45
12.....	102	96
Average.....	116	88



per acre, or \$87 more per acre than was actually assessed. As, by estimate of the office of the County Assessor, the total acreage subject to preferential assessment was virtually unchanged from that of 1957, the aggregate loss in assessable base in 1960 approximated \$12.5 million, or about 1 percent of all taxable property (table 8).

As these figures indicate, the tax loss may be expected to grow each year as long as farm and nonfarm pressures on the market value of suburban farmland persist.

In 1960, approximately 29,000 acres of farmland in Carroll County were subject to preferential assessment. By use of the same procedure used in Montgomery County, the loss to assessable base in this county may be estimated at approximately \$1.9 million, or about 1.4 percent of the present total base. In Howard County, there were in 1960 an estimated 69,000 acres. On this land, the loss to the assessable base amounted to \$125 per acre, or \$8.6 million. This was about 7.0 percent of the 1960 total assessment of the county (table 8).

In Prince Georges County, the assessed value of farmland was about 65 percent less than it would have been had farm real estate been assessed on the basis of market value. In Baltimore County, the assessed value would have been 40 percent less. It was not possible in these counties to estimate a total loss to assessable base because no estimate of the total number of farms or the total acreage affected by the law was available.

It should be reemphasized that in Prince Georges, Carroll, Howard, and Baltimore Counties, the standard procedure, even before enactment of the law in 1957, was to assess farmland on the basis of agricultural considerations alone. Thus these counties suffered no actual reduction in tax base, except in comparison with what it might have been under assessments based on market values.

In all counties studied, the areas nearest the nucleus of the metropolitan area were found to have a greater market value per acre than those farther from the urban center (figs. 4 to 8.) To some extent, land near metropolitan centers may be more valuable for agricultural purposes than property less well situated. Far more important, however, in determining market value, is the fact that because they are closer to employment, recreation, transportation, and so on, these areas are in greater demand by farmers and suburbanites and therefore can command a higher price than land which might be classed as more "rural" in nature.

#### AGRICULTURAL USE

The evidence given above indicates that the preferential assessment of farmland in Maryland has conferred substantial benefits in the form of tax reduction on owners of land "used in agriculture." It becomes a matter of some importance, therefore, to define clearly those properties that are eligible for preferential assessment on the basis of agricultural use, as distinct

TABLE 8.--Loss to tax base attributable to preferential assessment, specified counties, Maryland, 1960

County	Acreage affected by exemption	Tax loss per acre	Aggregate loss to total tax base	Total tax base	Percentage of tax base lost
	<u>Acres</u>	<u>Dol.</u>	<u>Mil. dol.</u>	<u>Mil. dol.</u>	<u>Pct.</u>
Montgomery.....	144,000	87	12.5	1,250	1.0
Howard.....	69,000	125	8.6	<sup>1</sup> 123	7.0
Carroll.....	29,000	64	1.9	<sup>1</sup> 136	1.4
Prince Georges.....	(2)	426	(2)	<sup>1</sup> 683	(2)
Baltimore.....	(2)	148	(2)	1,563	(2)

<sup>1</sup> 1958 total tax base.

<sup>2</sup> Data not available.

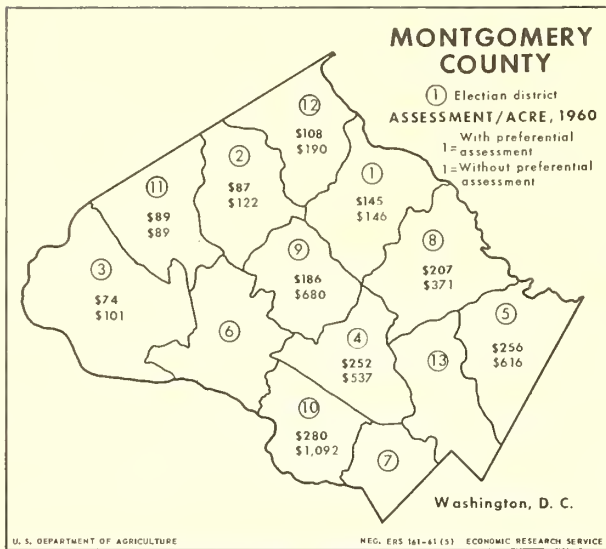


FIGURE 4

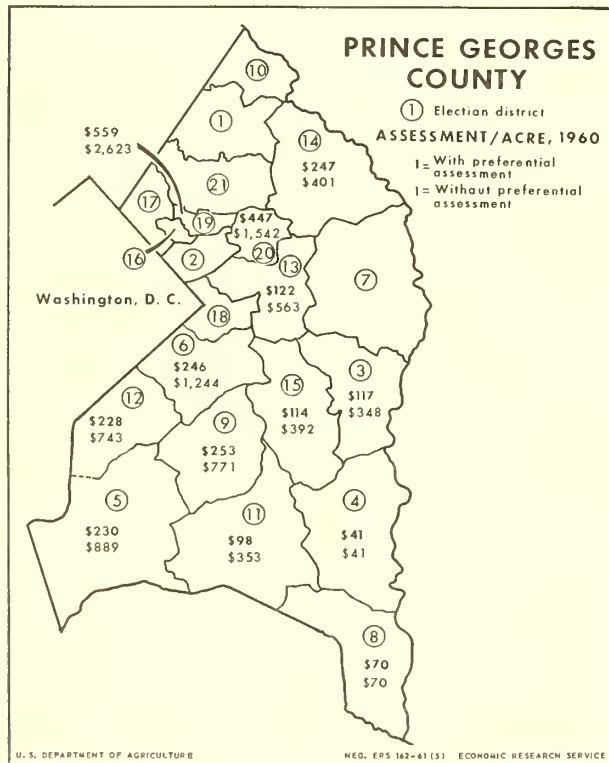


FIGURE 5

from those that are not eligible. This distinction is not one that the assessor would normally be required to make. When all property is assessed at what it would sell for, the present use of the property is of little relevance. This is true especially in zones of transition from farm to resi-

dential use or from residential to commercial use. But when present use is established as the basic criterion for classification, and when substantial tax benefits turn on this classification, the concept of agricultural use becomes central.

Indeed, this problem of defining agricultural use has proved to be most troublesome in the administration of the law. Does cutting hay on a field bring the land under the agricultural use provision? How about grazing a cow? Or if one cow is not sufficient, would two be? Or 5? Or 10? Where is the line to be drawn? Despite the changes enacted in 1957 and the efforts of the State Tax Commission under that law to

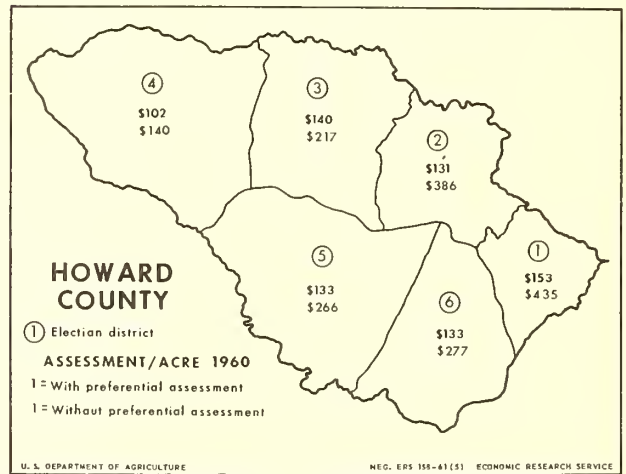


FIGURE 6

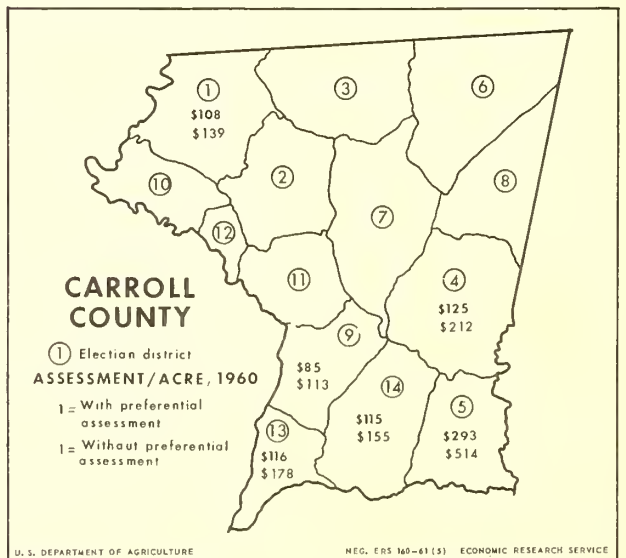


FIGURE 7

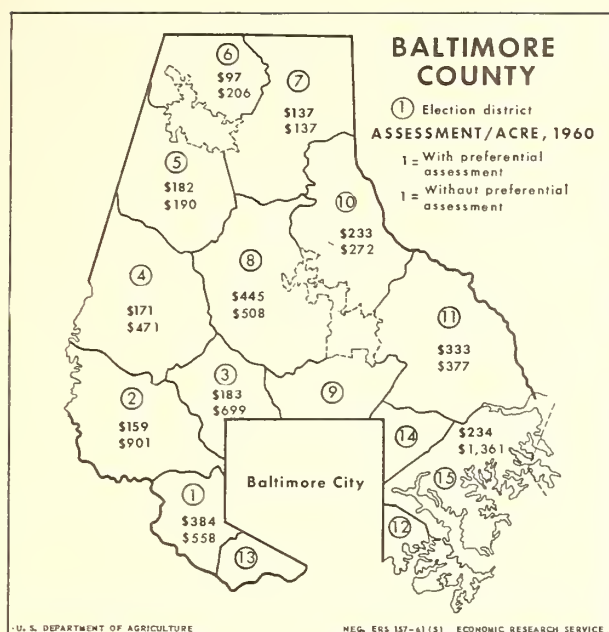


FIGURE 8

lay down guidelines for assessors to follow, much uncertainty remains as to what properties are eligible for preferential treatment on the basis of agricultural use and what properties are not eligible. This problem has arisen especially in connection with part-time farms and with what might properly be termed country estates.

In the absence of statewide objective criteria, many different methods of defining agricultural use have been introduced. Some persons have taken the term to mean historic use; others have held that a property must be of at least 10 acres to be classed as in agricultural use; still others have taken into consideration the amount of income derived from the property. In one county, the amount a new buyer pays for the land is relevant; anyone who pays a price more than can, in the assessor's judgment, be warranted by the land's agricultural productivity, is assumed to have bought it with some other use in mind. It is obvious that the decision as to what constitutes agricultural use has often turned on purely subjective considerations. Unless uniform objective criteria can be developed, administration of the law will probably continue to be difficult.

In one county, an interesting partial exemption plan has been developed. In the belief that much of the land held for purely speculative purposes qualifies for the preferen-

tial assessment, the County Assessor has followed a policy of giving an agricultural exemption only to the extent that land is actually in agricultural use.

Two examples described by the assessor may serve to demonstrate the workings of this plan. The first is a 100-acre cattle farm, of which 75 acres were pastureland and the rest waste or woodland, or both. In the assessor's judgment, this farm would support about 75 steers. But on inspecting the personal property schedule, he found that there were only 35 steers on the farm, and that no other kind of farming activity was carried on. The assessor therefore allowed the owner of this property an exemption of about 50 percent of the difference between the assessment on the basis of agricultural use and the assessment based on market value. If the farm could have been sold for \$500 an acre, it would have been assessed, on the basis of 60 percent of market value, at \$300 an acre. But on the basis of agricultural use, it was assessed at only \$60 per acre; the difference is \$240 per acre, and at 50 percent, the exemption would be \$120 per acre. The assessed value, therefore, was put at \$180 per acre.

A second example is a 200-acre farm, from which some 10 to 25 acres had been previously subdivided. The owner had leased the remaining land for agricultural use. Here again, the assessor's policy was to grant a partial exemption. When asked how he determined the amount of the exemption, the assessor reported that in general, the amount granted would be as little as possible, but that in no case would the exemption be greater than 60 percent of the difference between the assessment based on market value and the assessment based on agricultural value.

In general, this partial exemption was reportedly applied when the assessor felt that, because of the lack of objective criteria on which to base his judgment, he could not defend the denial of the whole exemption in a court case or in an appeal.

The difficulties of defining agricultural use have led to widespread feeling among farmers, as well as among many tax administrators, that the principal beneficiaries of the law have been speculators and developers, rather than farmers.

Examples may be cited to support this claim. In one county, a 160-acre farm was sold to a man who had been engaged in land



development for some time. The buyer paid \$1,000 an acre for the land, which was lying idle at the time of sale. After the sale, he leased the land to adjacent farmers who undertook farming operations on it. The assessor, however, refused to allow a preferential assessment on the land, in the belief that it was no longer a true farm but was being held for eventual sale for nonfarm use. When challenged in court, the assessor's decision was overruled, and he was required to reduce the assessment on the land to \$80 an acre.

In another county, a piece of land having a 300-foot frontage had been rezoned commercial at the request of the owner. On the basis of this fact, the preferential assessment was withdrawn from the land. The court reversed this decision also and ordered all the land to be assessed as a farm.

In both of these instances, the assessor was attempting to distinguish between the genuine farmer, or owner of land used in bona fide farming operations, and the speculator or developer. This distinction rests mainly on the intent of the owner. But with many owners, especially in areas that are being urbanized, several motives for buying or holding land may be present. Few farmers, no matter how pure their agricultural orientation, are blind to the investment potential of their land. At what point does such a farmer become a speculator? And what objective evidence is there of this change in motive? It seems clear that, although the criterion of agricultural use has proved difficult to apply, a distinction that turns on the owner's motive in buying or holding land does not offer a usable criterion.

## AGRICULTURAL VALUE

The problem of defining agricultural use is closely related to that of determining agricultural value. Since market prices no longer provide a reference point for farmland assessments in areas close to cities, greater weight must be placed on other methods. Market prices established in farmer-to-farmer sales in outlying districts give some indication of agricultural value, but this information must be supplemented in various ways. In one county, the assessor's practice was to capitalize the average income per farm and use the resultant figure as the base value for an average

farm. In another county, the assessor, with the aid of soil maps, classified land in the county on the basis of fertility and assigned base values accordingly. These values were given predominant weight in determining the assessed value per acre of any agricultural land. Others worked from maximum values based on estimates of what a legitimate farmer could pay for land and still remain in business. These figures were then adjusted to per acre values, taking into consideration such factors as topography, location, fertility, and so on.

The variety of methods used in arriving at agricultural value is indicative of the complexity of a problem that will probably become more intricate as time passes, urbanization expands, and sales of land that reflect only "agricultural" considerations become more and more rare.

In summary, preferential assessment of farmland, as under the Maryland law, involves an explicit departure from the general rule of property taxation - that property be assessed and taxed according to its market value. This law identifies a category of property to which the market-value standard for assessment shall not apply. In assessing land "used in farming," instead of the full range of value-determining influences, only certain ones are to be considered in assessment - those relevant to its agricultural use.

Departures from the ad valorem basis for assessment are not unknown in property taxation. Standing timber and mineral deposits, for example, have long been recognized as two forms of property to which market-value assessment could be applied only with undesirable economic effects. Exceptions for intangible personal property are also widespread. Nevertheless, the general rule remains that property should be assessed according to its market value, and the burden of proof rests on him who argues for a departure.

Whether a departure from the principle of taxation according to market value is warranted for farmland in areas near expanding urban centers would depend upon the results of comparing the effects of strict application of the ad valorem criterion with those of abandoning this criterion.

As to the taxes payable on individual farm properties, this study shows that the preferential assessment of farmland



resulted in an average reduction of 46 percent of assessments based on market value. Most of the reduction occurred in those areas nearest the metropolitan centers of Baltimore and Washington, D. C. The loss in tax base to individual counties ranged from 1 to 7.0 percent.

An important part of the evidence needed to render a judgment on the overall desirability of preferential assessment of farmland concerns the effects of this policy on land use and land ownership. This information is especially significant in view of the claims advanced by proponents of the law that it has slowed the expansion of urban development into agricultural areas, and in view of opposing statements that it has enabled speculators and developers to buy and hold farmland under favorable taxation while conducting minimal farming operations.

The present study did not investigate the consequences of preferential assessment on land use and tenure. This topic is the subject of further research currently underway. However, preliminary figures from the 1959 Census of Agriculture in Maryland indicate that the law may not be holding a great deal of land in agriculture. Since 1930, the total acreage of land in farms in the five-county area was down by 426,000 acres, or 26 percent; the decrease from 1954 to 1959 was 16 percent.

As to administrative feasibility, the Maryland experience suggests that serious problems are involved in determining agricultural use and measuring agricultural value. It is likely that problems of this kind are inherent in any program that confers tax benefits on certain properties, defined according to use, and that requires assessment of such properties not on market values but on a limited group of value-determining factors.

## ALTERNATIVE PROPOSALS

Brief mention should be made of several other methods besides the approach followed in Maryland, which aim to preserve open country in agricultural use and protect it from confiscatory levels of taxation while it is awaiting development. One involves the sale by owners of farmland of the rights to develop their property. Another uses zoning laws. A third involves deferring part of the taxes due on the full valuation of farmland until such time as the land is

sold for development. A fourth would tax the difference between the sale price of farmland and its agricultural value.

Maryland, along with New York, California, and possibly other States, authorizes the State or local governmental subdivisions to acquire development rights in land. In Maryland, this authority was conferred by act of the 1960 legislature.

The act reads: 357A. (a) The acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced. Any county or city, and the State Department of Forests and Parks, may acquire, by purchase, gift, grant, bequest, devise, or lease, the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve this end. Any county or city, and the State Department of Forests and Parks, may also purchase or acquire by contract or gift the fee to any property for the purpose of conveying or leasing said property back to its original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the purposes of this section. The county or city shall not acquire any such fee or any such lesser interest in real property for the purposes aforesaid, by purchase or contract requiring a monetary consideration in excess of \$500.00, until and unless the governing body of such county or city shall adopt a resolution or formal order declaring the public purpose or use therefor and

after holding a public hearing respecting the same.

(b) For the purposes of this section, an "open space" or "open area" is any space or area characterized by (1) great natural scenic beauty or (2) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources (7)."

The act was approved March 23, 1960.

Under this law, the farmer who divests himself of the right to develop his property would presumably be taxable only on the value of the rights he retains in the property - that is, principally the value of the land in agriculture. If he retains his development rights, he would be fully taxable on the market value. This method would allow the farmer to continue in operation in areas in which the community has acquired the development rights (or conservation easements, as they are sometimes called) but would take the profit out of buying or holding land for future development.

A possible difficulty in this approach may be the heavy cost to the State or local unit of buying development rights in areas where preservation of farmland is desired. But the inducement of lower taxation may be sufficient to lead many farmers to donate the development rights in the property they own to some public body. Experience with this device is scant, however, and its operation and effects are difficult to foretell with any precision.<sup>9</sup>

## LAND USE CONTROLS

A second method of protecting farmland from urban encroachment is through land use controls. The most common form is

zoning. The State or its local subdivisions may zone selected areas of the State as agricultural areas or open spaces, thereby restricting the suburban growth of the State. The problem here is that zoning is effective only if the inhabitants of the area in question possess the will to maintain the restrictions. If owners of farmland in the fringe area genuinely want it to remain in agriculture, zoning may be of help; but if any substantial proportion of them do not want this - possibly because they wish to use the restrictive zoning power only until they feel that the land is ready for selling - there is a good chance that the zoning restrictions may be relaxed.

## TAX-DEFERRAL SYSTEMS

There are a variety of tax deferral schemes designed to relieve tax pressures on farmland in rural-urban fringes. One that seems to have promise of holding land in open spaces can be tied to the Agricultural Exemption Acts of Maryland, New Jersey, Florida, and California. One plan would defer the taxes on that part of the value of agricultural land that is attributable to any nonagricultural influences. When the land is sold, the cumulative amount of such deferrals becomes due, perhaps plus interest. This plan involves some administrative difficulties, such as keeping the record of taxes due on each piece of property and the problem that arises when the total amount deferred equals the non-agricultural value of the land. Also, it presupposes some method of obtaining an accurate year by year estimate of the full market value of property on the basis of which the deferral may be calculated.

Finally, a plan that may avoid some of these problems is one whereby a tax is imposed on the increase in land value that is associated with conversion to nonagricultural uses. This tax on the gain would be coupled with preferential assessment of farmland, as in Maryland. Unlike the Maryland system, under which the savings to the taxpayer are never recouped, this system would provide at least a partial offset to the tax benefit conferred on owners of undeveloped land. For this reason, the definition of eligible property would be less critical, and the taxpayer could even be given the option of claiming preferential assessment, with the subsequent tax on the gain, or alternatively, an annual tax on market-based assessments.

<sup>9</sup> For a more complete discussion of the development rights proposal, see *Securing Open Spaces for Urban America* (14).



The tax could be made due and payable whenever the land is developed--developed meaning the building of houses or industrial structures that are not agricultural in character or use. Before a developer started to lay out sewers, water lines, and electric and other development necessities, he could be required to inform the assessment office of his interest in developing, and to request a market valuation of his land. The tax would be imposed on the difference between the market valuation and the previous agricultural valuation. If the developer had recently purchased the land, this value would be set by the land's selling price; otherwise the land would need to be appraised by the assessor with the aid of current available methods of estimating market valuation, such as comparable sale prices. The tax would have to be paid before the property could be sold.

This feature should insure registrations of intent to develop. Consequently, the tax would fall largely on the rise in value of land and not on improvements to land. It may be thought of as a payment by the developer for the right to develop land in the State.

The rate of tax would depend on several factors. In some way, it should be related to the average amount of tax-exemption land, taking into consideration the amount of time the preferential assessment has been in effect. More importantly, it should be high enough to help retain land in open spaces.

One advantage of this type of scheme is that it will not cost the State that has enacted a law similar to the Preferential Assessment Law of Maryland additional funds to administer, for the above law already requires calculation of the agricultural value of the land; and the nonagricultural value of the land can easily be determined at the time of sale. Instead of requiring additional funds, the revenues from a scheme of this kind could be used to finance sewers, roads, and especially schools, which are required whenever a new subdivision is built.

## CONCLUSIONS

The Maryland experience illustrates that preferential assessment of farmland in the rural-urban fringe areas is of tangible benefit to the individual owners of farmland. Even in Carroll County, where urbaniza-

tion has had least import, the law reduced assessments on "exempted" farmland by an average of a third from what they would have been otherwise. The loss in assessable base ranged from a high of about 7.0 percent in 1960 in Howard County to a low of 1 percent in Montgomery County.

A law of the type enacted in Maryland is one answer to the problem of prohibitive taxation of agriculture in rural-urban fringe areas. To the extent that it helps to preserve agriculture, it contributes to the maintenance of open spaces around growing cities and therefore benefits the urban as well as the rural segments of the metropolitan community. The effectiveness of tax measures in preserving open spaces, however, depends upon their being coupled with area-wide planning and controls over land use. Otherwise there is no guarantee that open spaces will actually be preserved by the tax protection granted owners.

In addition, serious administrative difficulties have arisen, notably in defining agricultural use in such a way as to limit the benefits of preferential assessment to owners of bona fide farms. This problem, and that of determining agricultural value are among the most troublesome features of the law.

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